



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Al Cardillo & Sons Plumbing & Heating, Inc.

File: B-252554

Date: March 11, 1993

DECISION

Al Cardillo & Sons Plumbing & Heating, Inc. protests the proposed award of a subcontract to Adams Plumbing and Heating under invitation for bids (IFB) No. M5-92-27, issued by General Electric Company (GE), the prime contractor, by and for the Naval Facilities Engineering Command, Department of the Navy, for steel fabrication to increase chilled water capacity at a civil works project site. The protester argues that Adams is not a responsive bidder.

We dismiss the protest.

The IFB was issued on December 1, 1992. Bidders were requested to complete and to submit with their bids an experience questionnaire which was included with the IFB. The experience questionnaire requested, among other things, information concerning a bidder's experience (number of years) with the type of work contemplated by the IFB, projects completed by the bidder within the last 5 years, and names and addresses of the bidder's proposed subcontractors for this job. The IFB also contained a requirement that "[w]ork shall be fabricated in an AISC [American Institute of Steel Construction] certified category I [conventional steel structures] fabrication plant."

Eight firms submitted bids by bid opening on January 7, 1993. Adams was the apparent low bidder. In its completed experience questionnaire, Adams stated that it has 13 years of experience as a general/specialized contractor and as a subcontractor involving the type of work contemplated by the IFB; it listed 3 relevant projects completed within the last 5 years; and it listed the names and addresses of its proposed subcontractors for the general, electric, and structural steel portions of the subcontract.

On January 7, the protester, the apparent second low bidder, filed a protest with GE, arguing that based on the information in Adams' completed experience questionnaire, Adams proposed a structural steel subcontractor which was

not an AISC certified category I fabrication plant and, therefore, Adams' bid should be rejected as nonresponsive. By letter dated February 22, and received by the protester on the same day, GE denied the protester's protest. GE stated that while the specifications in the IFB required that steel fabrication be performed by an AISC certified category I fabrication plant, the IFB did not specifically require that the fabrication plant be identified in the bid. In determining whether Adams was a responsible bidder, GE stated that Adams would be required to demonstrate its ability to comply with the AISC certification requirement. GE stated that the information in Adams' experience questionnaire was preliminary, but not exclusive, information upon which a determination of Adams' responsibility would be made prior to award. In ultimately determining that Adams was a responsible bidder and would comply with the AISC certification requirement, GE considered a statement submitted by Adams that its proposed structural steel subcontractor will further subcontract the steel fabrication part of the job to another firm that has the required AISC certification. This approach for compliance with the required AISC certification also was confirmed by Adams' proposed structural steel subcontractor.¹ On March 4, the protester filed its protest with our Office. Pending our decision on this protest, GE proposes to award a subcontract to Adams, determined to be the low, responsive, responsible bidder.

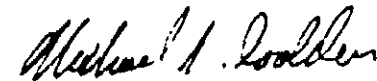
The IFB requested each bidder to complete an experience questionnaire, listing among other items the names of the bidder's proposed subcontractors. Contrary to the protester's assertion, the information furnished by Adams in its completed experience questionnaire related not to the responsiveness of Adams' bid, but to Adams' responsibility and did not establish any definitive responsibility criteria which Adams would be required to meet. See The Forestry Assoc., Inc., B-237225.2, Nov. 17, 1989, 89-2 CPD ¶ 476.

In this case, while the protester is apparently correct that Adams' proposed structural steel subcontractor does not have the required AISC certification, GE considered Adams' statement that its proposed structural steel subcontractor (which confirmed this approach) will further subcontract the steel fabrication part of the job to a fabrication plant with the required AISC certification. Thus, to the extent the protester believes that Adams will not be able to perform the subcontract, this matter concerns GE's determination that Adams is a responsible contractor.

¹Requirements that relate to responsibility may be satisfied at any time prior to award. SDA, Inc.--Recon., B-249386.2, Aug. 26, 1992, 92-2 CPD ¶ 128.

OEA Research Ecological Servs., B-245524, Oct. 30, 1991, 91-2 CPD ¶ 410. Our Office will not review an affirmative determination of responsibility unless the protester shows either that the determination was made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation were not met. 4 C.F.R. § 21.3(m)(5). Here, the protester has not alleged fraud or bad faith, and the requirement for an AISC certified category I fabrication plant involves a contract performance requirement, see, e.g., ADT Sec. Sys., Inc., B-249932.2, Feb. 4, 1993, 93-1 CPD ¶ ___, not a definitive responsibility criteria. Therefore, we have no basis to question the proposed award of a subcontract to Adams, determined by GE to be the low, responsive, responsible bidder.

Accordingly, the protest is dismissed.



Michael R. Golden
Assistant General Counsel